IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 251 OF 2005

IN

SUIT NO. 248 OF 2005

Guardex Retreads Pvt. Ltd. .. Plaintiff.

vs.

Ornate Multi Model

Carrier Pvt. Ltd., .. Defendants.

Ms. M.R. Patel with B.H. Prasad Sharma

for the plaintiff.

Mr. Ashish Kamat i/by Kartiketya & Associates

for defendants.

CORAM : S.U.KAMDAR, J.

DATE : 9th January,2006.

P.C.

. The present suit is filed on the basis of the orders and invoices which are at Exhibits A and A-1. It is the case of the plaintiff that pursuant to the said orders placed, the plaintiff has carried out the retreading the tyres and delivered the same to the defendants. It is the case of the plaintiff that the work is defective. However, there is no material whatsoever on record to show that any such

defective work is carried out. The retreading is done only on the second hand tyres and, therefore, the question of goods being defective does not arise. However, in spite of the aforesaid, with a view to give an opportunity to the defendants to defend the suit, the defendants are directed to deposit a sum of Rs. 90,000/- in this Court. Deposit to be made within four weeks failing which the plaintiff will be entitled to a decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. Summons for judgment disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.